Response from Fred Dyste (fred@dystebizdev.com) on behalf of the applicant, the City of Grover Beach.

To whom it may concern:

I found the most expeditious way to answer your questions was to do so inline with your document. The total number of pages of the document is 13, but your document is 10, so my actual response is only three pages. I chose not to format this with an executive summary nor table of contents.

I hope you find this acceptable.

Cheers,

Fred Dyste

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I. The Application and Review Process

A. *Streamlining the Applications.* For the first round of funding, applicants were required to complete a broadband infrastructure application, public computer center application, or sustainable broadband adoption application, depending on the type of project being proposed. For each application, the NOFA required applicants to respond to a number of questions and submit certain data. Those applicants considered highly qualified after completion of step one of the review process were required to submit additional information during a step two "due diligence" phase to substantiate the representations provided in the application.[3] Some stakeholders, especially applicants completing the broadband infrastructure application, stated during the first round application process that completing the initial application was overly burdensome based on the questions asked and the number of attachments required. RUS and NTIA tentatively conclude that the application process should be streamlined.

In what ways should RUS and NTIA streamline the applications to reduce the burden on applicants, while still obtaining the requisite information to fulfill the statutory requirements set forth in the Recovery Act?

Better technology platform for the application web site. Trying to upload and access files for verification was overly time consuming and prone to server time outs which could be resolved with proper web service development and hosted servers.

Should the agencies modify the two-step review process, and if so, how?

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YES. I appreciate the two step process in that it eliminates some of the time and expense needed for the finer details. Step One should take a high level look at the project and. based on key indices, be moved forward to Step 2 for detailed analysis. In the case of our project, a municipality was funding the application process and a private company was bearing some of the burden in support of the community effort. We did not have the funds to come up with design detail drawings and project planning details unless we had a higher level of confidence our project had a shot at funding.

For all parties it is easier to budget time and money. High level information with budget and design details falling within acceptable industry parameters. Once the merit of the project has been judged, then the applicants cans spend the time and effort to get the level of detail required for funding.

Should certain attachments be eliminated, and if so, which ones?

NO. The attachments were not burdensome. Uploading documents for the application needs work. This was the most difficult part of the process. Also the time factor became an issue when we had to rely on third parties to sign off on documentation.

Should the agencies re-examine the use of a single application for applicants applying to both BIP and BTOP to fund infrastructure projects?

YES. The two programs have different criteria. It would have been easier if there were three application paths to take, BIP, BTOP, BIP/BTOP.

How should NTIA link broadband infrastructure, public computer center and sustainable adoption projects through the application process?

For broadband infrastructure there should be a third category for combined middle mile / last mile projects. Taking this the next step, a vertical project would include all three program types and should be judged accordingly. A vertical or integrated project stands a better chance of success over disparate applications overlapping in a region.

1. *New Entities.* What type of information should RUS and NTIA request from new businesses, particularly those that have been newly created for the purpose of applying for grants under the BIP and BTOP programs?

In our case we did not take the step of creating an entity due to the costs and time related to creating a public/private entity. The Federal Government and local municipalities are breaking new ground with how they do business. In the private world it is perfectly acceptable to float a business plan for an entity that has yet to be created. As long as the plan details what will done when money is received, a project should not take a hit for not having the entity in place.

For example, should the agencies eliminate the requirement to provide historical financial statements for recently-created entities?

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YES. We answered this question by stating that we are a new entity and therefore had no historical information.

2. *Consortiums and Public-Private Partnerships.* Similarly, how should the application be revised to reflect the participation of consortiums or public-private partnerships in the application process?

The application should have a data field for "Applicant Type" with the following field values: public, private, public/private, tribal, and non-profit. There may be one or two additional fields. Now the question remains, is one type better than another and does the Federal Government have a preference which type they do business with.

Should certain critical information be requested from all members of such groups, in addition to the designated lead applicant, to sufficiently evaluate the application?

Yes, but keep it simple in Step 1 and ask for financial detail in the second. Make sure each entity is legal, valid, and stable.

If so, what type of information should RUS and NTIA request?

Perhaps a list of other involved entities and whether they are public, private, non-profit, or tribal. Some sort of financial disclosure to make sure the entities are viable.

3. *Specification of Service Areas.* The broadband infrastructure application required applicants to submit data on a census block level in order to delineate the proposed funded service areas. Some applicants found this requirement burdensome. What level of data collection and documentation should be required of applicants to establish the boundaries of the proposed funded service areas?

I think what was requested was appropriate for the objective. The tools provided to determine areas of coverage and service availability made the process burdensome.

Move the application servers into a hosted environment. The tools need work and access to information needs to be improved. I spent more time looking for accurate information and waiting for web based processes to complete than actually working on the application.

4. *Relationship between BIP and BTOP.* The Recovery Act prohibits a project from receiving funding from NTIA in areas where RUS has funded a project. Section VI.C.1.a.i of the NOFA required that infrastructure applications consisting of proposed funded service areas which are at least 75% rural be submitted to and considered under BIP, with the option of additional consideration under BTOP. According to the NOFA, NTIA will not fund such an application unless RUS has declined to fund it. RUS and NTIA are presently reviewing joint applications consistent with the process set forth in the NOFA. Should these kinds of rural infrastructure applications continue to be required to be submitted to RUS or should the agencies permit rural applications to be submitted directly to NTIA, without having to be submitted to RUS as well, and if so, how should NTIA and RUS proceed in a manner that rewards the leveraging of resources and the most efficient use of Federal funds?

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I don't have a comment on this one.

Are there situations where it is better to give a loan to an applicant as opposed to a grant?

I cannot think of any except when a grant is denied.

Are there applicants for which a loan would not be acceptable, and if so, how should the programs consider them?

Based on the merit of the project using the same criteria as the rest of the applicant field.

B. *Transparency and Confidentiality.* Consistent with the Administration's policy and the Recovery Act's objective to ensure greater transparency in government operations, RUS and NTIA are considering whether they should permit greater access, consistent with applicable Federal laws and regulations, to certain applicant information to other applicants, policymakers, and the public, including state and tribal governments. Should the public be given greater access to application data submitted to BIP and BTOP?

YES. The data needed to analyze the projects based on key indices is available online today. Make it available in database format and let everyone see what everyone else is proposing.

Which data should be made publicly available and which data should be considered confidential or proprietary?

Include: Coverage area, census data, requested amounts by grant and loan, technologies deployed, associated projects. Executive summaries are a must.

Exclude: Financial details and proprietary technical information.

For example, RUS and NTIA tentatively conclude that the application's executive summary should be made publicly available for the second round of funding.

C. *Outreach and Support.* For the initial round of funding, RUS and NTIA provided multiple means of applicant support and outreach, including hosting national workshops and minority outreach seminars, publicly releasing an application guidance manual, posting responses to Frequently Asked Questions on www.broadbandusa.gov, and establishing a Help Desk that fielded thousands of telephone and e-mail inquiries. What method of support and outreach was most effective?

NA

What should be done differently in the next round of funding to best assist applicants?

Better online tools and faster servers are much needed. The technology platform was not up to the task and caused more problems for us than anything else.

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D. *NTIA Expert Review Process.* During the first round of funding, NTIA utilized panels of at least three independent reviewers to evaluate BTOP applications.7 A number of stakeholders have questioned whether this is the most effective approach to evaluating BTOP applications. To further the efficient and expeditious disbursement of BTOP funds, should NTIA continue to rely on unpaid experts as reviewers?

No. Take some of the mapping grant money and apply it towards a competent, professional cadre of evaluators.

Or, should we consider using solely Federal or contractor staff?

Use a combination of Federal staff working in partnership with qualified industry consultants.

II. Policy Issues Addressed in the NOFA

A. *Funding Priorities and Objectives.* Section IV.B of the NOFA establishes the funding limits for the first round of BIP and BTOP funding.8 In particular, RUS set aside approximately $2.4 billion in funding, with up to $1.2 billion available for last mile projects, up to $800 million available for middle mile projects and up to $325 million available for a national reserve. NTIA allocated up to $1.2 billion for broadband infrastructure projects, up to $50 million for public computer center projects, up to $150 million for sustainable broadband adoption projects, and up to $200 million as a national reserve. Many parties have publicly made suggestions as to how the NOFA could be modified to ensure that the Recovery Act funds make the greatest impact possible. RUS and NTIA welcome suggestions for targeted funding proposals and seek comment on how they can better target their remaining funds to achieve the goals of the Recovery Act. Below we set forth some examples of types of projects we could specifically target. We seek comment on these proposals as well as any others.

RUS and NTIA request commenters that are proposing a more targeted approach for round 2 projects to support their proposal with quantitative estimates of the projected benefits of adopting such an approach. For example, commenters should quantify the impact of their proposal based on such metrics as the number of community anchor institutions committing to service, the number of last mile providers committing to utilize middle mile projects, the number of end users reached by the proposal, the number of new jobs created, directly and indirectly, and the projected increase in broadband adoption rates, as well as any other metrics necessary to justify the adoption of their proposal and ensure that the benefits of the Recovery Act are being realized. Commenters should explain the basis and method of calculation for the quantifications they provide.

1. *Middle Mile "Comprehensive Community" Projects.* Should RUS and/or NTIA focus on or limit round 2 funding on projects that will deliver middle mile infrastructure facilities into a group of communities and connect key anchor institutions within those communities?

I don't think the NTIA should focus on or limit middle mile funding; rather every middle mile application should have an associated last mile solution. Last mile delivery is the problem we are trying to solve. There is no sense in funding a middle mile project if it does not make the last mile of connectivity to the end user.

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Ensuring that anchor institutions, such as community colleges, schools, libraries, health care facilities, and public safety organizations, have high-speed connectivity to the Internet can contribute to sustainable community growth and prosperity. Such projects also have the potential to stimulate the development of last mile services that would directly reach end users in unserved and underserved areas. Additionally, installing such middle mile facilities could have a transformative impact on community development by driving economic growth.

Should we give priority to those middle mile projects in which there are commitments from last mile service providers to use the middle mile network to serve end users in the community?

YES. End to end service should be given highest priority.

Should the agencies' goal be to fund middle mile projects that provide new coverage of the greatest population and geography so that we can be assured that the benefits of broadband are reaching the greatest number of people?

YES. This sounds like a rewording of the intent of the ARRA Bill.

Should we target projects that create "comprehensive communities" by installing high capacity middle mile facilities between anchor institutions that bring essential health, medical, and educational services to citizens that they may not have today?

As long as they have a last mile component.

Should certain institutions, such as educational facilities, be given greater weight to reflect their impact on economic development or a greater need or use for broadband services?

Educational institutions should be the beneficiaries of last mile coverage but they are not best suited for being the provider of services to the general public. This should be left in the hands of local government or private industry with educational institutions being partners in the application.

If so, what specific information should RUS and NTIA request from these institutions?

No opinion

To the extent that RUS and NTIA do focus the remaining funds on "comprehensive community" projects, what attributes should the agencies be looking for in such projects?

Make sure the business model is sustainable. There should be a good mix of private companies taking on critical roles outside of the scope of traditional municipal services.

For example, are they most sustainable to the extent that they are public-private partnerships through which the interests of the community are fully represented?

YES

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Should we consider the number of existing community anchor institutions that intend to connect to the middle mile network as well as the number of unserved and underserved communities and vulnerable populations (i.e., elderly, low-income, minority) that it will cover?

Not in Round II. Hopefully Round I will have captured most of the anchor institutions. I think this worked against many unserved areas where services are greatly needed but there is not a high density of anchor institutions. These areas probably need services more than ones with anchor institutions.

How should RUS and NTIA encourage appropriate levels of non-Federal (State, local, and private) matching funds to be contributed so that the potential impact of Federal funds is maximized?

Be flexible on non-cash contributions to the partnerships.

In addition, should we consider the extent of the geographic footprint as well as any overlap with existing service providers?

Size does not matter as long as the cost of delivery is proportional to similar projects. Overlapping with existing services providers stimulates competition and is one of the intents of the ARRA Bill. Yes, allow service areas to overlap.

2. *Economic Development*. Should RUS and/or NTIA allocate a portion of the remaining funds available under the BIP and BTOP programs to promote a regional economic development approach to broadband deployment?

Absolutely.

This option would focus the Federal broadband investment on communities that have worked together on a regional basis to develop an economic development plan. It would encompass a strategy for broadband deployment, and would link how various economic sectors benefit from broadband opportunities. Such a regional approach would seek to ensure that communities have the "buy-in," and the capacity, and the long-term vision to maximize the benefits of broadband deployment. Using this option, NTIA and RUS could target funding toward both the short term stimulus of project construction and the region's longer term development of sustainable growth and quality jobs. For instance, rather than look at broadband investments in both rural and urban communities as stand-alone actions, should RUS and NTIA seek applications for projects that would systematically link broadband deployment to a variety of complementary economic actions, such as workforce training or entrepreneurial development, through targeted regional economic development strategic plans?

Absolutely.

Should funds be targeted toward areas, either urban or rural, with innovative economic strategies, or those suffering exceptional economic hardship?

Absolutely.

Should states or regions with high unemployment rates be specifically targeted for funding?

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Only if the project shows direct impact on employment.

3. *Targeted Populations.* Should RUS and NTIA allocate a portion of the remaining funds to specific population groups?

YES.

For example, should the agencies revise elements of the BIP and BTOP programs to ensure that tribal entities, or entities proposing to serve tribal lands, have sufficient resources to provide these historically unserved and underserved areas with access to broadband service?

YES, as long as they are economically and technically viable. There applications in Round I that have per person cost of over $20,000 when the standard is coming it around $1,400.

Similarly, should public housing authorities be specifically targeted for funding as entities serving low-income populations that have traditionally been unserved or underserved by broadband service?

YES.

How can funds for Public Computer Centers and Sustainable Broadband Adoption projects be targeted to increase broadband access and use among vulnerable populations?

No opinion

Should NTIA shift more BTOP funds into public computer centers than is required by the Recovery Act?

YES.

In what ways would this type of targeted allocation of funding resources best be accomplished under the statutory requirements of each program?

No opinion

Should libraries be targeted as sites for public computer access, and if so, how would BTOP funding interact with e-Rate funding provided through the Schools and Libraries program?

No opinion

4. *Other Changes.* To the extent that we do target the funds to a particular type of project or funding proposal, how if at all, should we modify our evaluation criteria?

No opinion. Too broad of a question given there are five project types in existence.

How should we modify the application to accommodate these types of targeted funding proposals?

No opinion. Too broad of a question given there are five project types in existence.

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For example, should any steps be undertaken to adjust applications for satellite systems that provide nationwide service, but are primarily intended to provide access in remote areas and other places not served by landline or wireless systems?

YES

Are there any other mechanisms the agencies should be exploring to ensure remaining funds have the broadest benefit?

No opinion

How might the agencies best leverage existing broadband infrastructure to reach currently unserved and underserved areas?

Compel the owners of the existing infrastructure to work with public and private entities to access the infrastructure and manage it available to the end user.

Are there practical means to ensure that subsidies are appropriately tailored to each business case?

No opinion

For example, should the agencies examine applicant cost and revenue estimates, and adjust the required match accordingly?

YES

Could elements of an auction-like approach be developed for a particular class of applications or region?

No opinion

If so, how would the agencies implement such an approach in a manner that is practical within program constraints and timeliness?

No opinion

B. *Program Definitions.* Section III of the NOFA describes several key definitions applicable to BIP and BTOP, such as "unserved area," "underserved area," and "broadband." These definitions were among the most commented upon aspects of the NOFA.

For example, a number of applicants have suggested that the definitions of unserved and underserved are unclear and overly restrictive; that they kept many worthy projects, particularly those in urban areas, from being eligible for support; that there was insufficient time to conduct the surveys or market analyses needed to determine the status of a particular census block area; and that they discouraged applicants from leveraging private investment for infrastructure projects. In what ways should these definitions be revised?

Agreed

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Should they be modified to include a specific factor relating to the affordability of broadband service or the socioeconomic makeup of a given defined service area, and, if so, how should such factors be measured?

Need to review

Should the agencies adopt more objective and readily verifiable measures, and if so, what would they be?

Need to review

How should satellite-based proposals be evaluated against these criteria?

No opinion

With respect to the definition of broadband, some stakeholders criticized the speed thresholds that were adopted and some argued that they were inadequate to support many advanced broadband applications, especially the needs of large institutional users. Should the definition of broadband include a higher speed and should the speeds relate to the types of projects?

ABSOLUTELY. The Federal Government has established that any new projects must deliver at least 20 Mbps for wired last mile and 2 for wireless. This should be set as the definition for broadband and all stakeholders must be held to it or we will be left in Asia's dust on broadband adoption and the economic advantage it holds. Make this the gold standard and put all incumbent carriers on notice.

This would level the playing field and force the incumbents to compete. Competition is the name of the game and something that does not exist in the market place today.

As I write this I sit in my home office 500 feet from the Union Pacific right of way where all north-south fiber traffic passes from Los Angeles to San Francisco. I sit less than 1 mile from Highway 101 where north-south truck and auto transportation passes from Los Angeles to San Francisco. I have one service provider available and it is Charter Communications. AT&T does not offer DSL service in my area. Other providers are wireless and require line of sight. Satellite does not work for my needs because of latency issues. How is this competitive? I live in an urban setting in what's considered a rural area. I cannot get the level of service or access needed to efficiently run my business from my home. Without competition, Charter will not increase its service or lower its pricing. This is the problem we are trying to overcome by stimulating competition.

Should the agencies incorporate actual speeds into the definition of broadband and forego using advertised speeds?

Yes. This is a glaring loophole that benefits the incumbent carriers and stifles competition.

If so, how should actual speeds be reliably and consistently measured?

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Poll the customers. We did this on a census block by census block basis and found the 'advertised' speeds were higher than the delivered speeds. There were many instances where the incumbent stated services were available and a request submitted for a valid address came back with "service is not available in your area."

The NOFA defines "remote area" as an unserved, rural area 50 miles from the limits of a non-rural area. The rural remote concept aims to address the prohibitive costs associated with broadband deployment in communities that are small in size and substantially distant from urban areas and their resources. The definition adopted in the NOFA was intended to ensure that the most isolated, highest-cost to serve, unserved communities could receive the benefit of up to 100 percent grant financing. The geographic factor upon which an area was determined to be eligible was its distance from a non-rural area; in this case, 50 miles. RUS heard from many interested parties, including members of Congress, on this definition. Many believed it was overly restrictive, thereby eliminating too many areas that were not 50 miles or more from a non-rural area but were nonetheless a fair distance away and unserved. Comment is requested on the definition of remote area, as well as whether this concept should be a factor in determining award decisions. Should factors other than distance be considered, such as income levels, geographic barriers, and population densities?

50 miles might be a bit much, maybe 25 mile increments instead. But I think distance is an important factor and should be taken into consideration. As the distance increases, the means of delivery should change from trenched fiber to aerial fiber to wireless to satellite based on cost benefit analysis.

C. *Public Notice of Service Areas.* Section VII.B of the NOFA allowed for existing broadband service providers to comment on the applicants' assertions that their proposed funded service areas are unserved or underserved. Some stakeholders have suggested that this rule may reduce incentives for applicants to participate in the BIP and BTOP programs because of the risk that their applications may be disqualified from funding on the basis of information submitted by existing broadband service providers that they have no means to substantiate or rebut. How should the public notice process be refined to address this concern?

Allow for a counter argument. The incumbents should not get the last word in this. From my seat as an applicant and a citizen, I am disturbed that I can see the incumbents' providers' lobbyist's fingerprints all over the NOFA.

What alternative verification methods could be established that would be fair to the applicant and the entity questioning the applicant's service area?

Make the questioning entities information available to the applicant.

Should the public notice process be superseded where data becomes available through the State Broadband Data and Development Grant Program that may be used to verify unserved and underserved areas?

YES

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What type of information should be collected from the entity questioning the service area and what should be publicly disclosed?

Verifiable service availability and transmission speed data. All of it should be disclosed.

D. *Interconnection and Nondiscrimination Requirements.* Section V.C.2.c of the NOFA establishes the nondiscrimination and interconnection requirements. These requirements generated a substantial amount of debate among applicants and other stakeholders. Although RUS and NTIA are not inclined to make significant changes to the interconnection and nondiscrimination requirements, are any minor adjustments to these requirements necessary?

Interconnection is easy to achieve for last mile delivery. However, for a middle mile project it gets a little more difficult clearly determine how and when other middle mile providers can use the network. There needs to be one main middle mile provider who will operate, manage and maintain the network.

In particular, should they continue to be applied to all types of infrastructure projects regardless of the nature of the entity?

No. In our case we are a public private partnership with a middle mile company managing and maintaining the network.

Should the scope of the reasonable network management and managed services exceptions be modified, and if so, in what way?

Need to review

Is it necessary to clarify the term "interconnection" or the extent of the interconnection obligation?

YES

E. *Sale of Project Assets.* Section IX.C.2 of the NOFA generally prohibits the sale or lease of award-funded broadband facilities, unless the sale or lease meets certain conditions.

Specifically, the agencies may approve a sale or lease if it is for adequate consideration, the purchaser agrees to fulfill the terms and conditions relating to the project, and either the applicant includes the proposed sale or lease in its application as part of its original request for grant funds or the agencies waive this provision for any sale or lease occurring after the tenth year from the date the grant, loan, or loan/grant award is issued. Some stakeholders have suggested that this rule is overly restrictive and is a barrier to participation in BIP and BTOP. Should this section be revised to adopt a more flexible approach toward awardee mergers, consistent with USDA and DOC regulations, while still ensuring that awardees are not receiving unjust enrichment from the sale of award-funded assets for profit?

Need to review

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F. *Cost Effectiveness.* How should NTIA and RUS assess the cost effectiveness or cost reasonableness of a particular project?

There are industry standards that can be used to determine a reasonable cost per person. Several factors have to be taken into account like the type of capital improvements on the project, the length of the backhaul to the population center, etc. Wireless should cost less than trenching fiber. The NTIA can use the database from Round I and gather information from organizations like the FTTH Council to determine actual costs to deploy last mile broadband.

For example, in the context of infrastructure projects, how should we consider whether the costs of deploying broadband facilities are excessive?

See previous response

In BTOP, one of the Project Benefits that NTIA considers is "cost effectiveness," when scoring an application. This is measured based on the ratio of the total cost of the project to households passed. However, such costs will necessarily vary based on the particular circumstances of a proposed project. For example, extremely rural companies typically have much higher construction costs than more densely populated ones. Also, geographic areas that experience extreme weather or are characterized by difficult terrain will dictate higher per household costs. Similarly, the technology that is chosen to provide the service (e.g., fiber vs. wireless) would influence the costs. And finally, smaller companies as measured by subscriber count would necessarily have a higher cost per subscriber than larger companies. How should the agencies take these various factors into consideration when evaluating broadband infrastructure projects?

Create a weighted indexing system that takes each factor into consideration and returns an index value. Apply the index value to the cost of the project and let the final number be used as a judging criterion.

What evidence should we require from applicants to ensure that unnecessary costs have not been added to the project?

Proper indexing should give a project with unnecessary costs a 'lower' score than reasonable costed projects.

G. *Other.* What other substantive changes to the NOFA should RUS and NTIA consider that would encourage applicant participation, enhance the programs, and satisfy the goals of the Recovery Act?

Need to review